

2012 BCSECCOM 99

Exemption Order

Alpha Exchange Inc. and Alpha Trading Systems L.P.

Section 33(1) of the *Securities Act*, RSBC 1996, c. 418

Headnote

Exemption from the requirement that a person must not carry on business as an exchange in British Columbia unless it is recognized by the Commission.

Background

1. Alpha Exchange applied on April 7, 2011 for relief from the requirement that it be recognized as an exchange.
2. The Ontario Securities Commission recognized each of Alpha Exchange and Alpha Trading Systems L.P. as an exchange, by order dated December 8, 2011.
3. All other Canadian securities regulatory authorities, except the Commission, have exempted Alpha Exchange and Alpha LP from recognition, effective when the operations of Alpha ATS Limited Partnership (Alpha ATS) have been legally transferred to Alpha Exchange.

Interpretation

In this order:

- (a) *venture exchange* means any one of the TSX Venture Exchange Inc., the Canadian National Stock Exchange, and Alpha Venture Plus; and
- (b) *venture issuer* means a reporting issuer listed on any venture exchange.

Representations

Alpha Exchange Inc. represents that:

1. it will operate two separate and distinct listing markets known as Alpha Main and Alpha Venture Plus;
2. its head office is in Toronto, Ontario and it does not have offices in any other jurisdiction;
3. it will be subject to the OSC's oversight program and it agrees to comply with the terms and conditions of the OSC order; and
4. it is not in default of securities legislation in BC or any other Canadian jurisdiction.

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Order

Based on the application and representations that Alpha Exchange has provided and considering that to do so would not be prejudicial to the public interest, the Commission orders under section 33(1) of the Act that Alpha Exchange Inc. and Alpha LP are exempt from the recognition requirement provided that they comply with the following terms and conditions:

1. Alpha Exchange must ensure fair, meaningful, and diverse representation on its Board of Directors and any Board committees, including:
 - (a) appropriate representation of independent directors;
 - (b) a proper balance among the interests of the different persons using the services and facilities of the exchange, including regional interests; and
 - (c) appropriate representation by persons that have expertise in or are associated with the Canadian public venture market.
2. Alpha Exchange must:
 - (a) establish and maintain a venture market advisory committee (advisory committee) to obtain stakeholder feedback on material changes to Alpha Venture Plus's operations (including, but not limited to, listing and trading);
 - (b) ensure the advisory committee is comprised of a proper balance of persons representing the interests of the different persons using the services and facilities of Alpha Venture Plus, including regional interests; and
 - (c) promptly report to the Commission, in writing, any material opposition to the advisory committee's views or recommendations, together with reasons for that opposition.
3. Alpha Exchange must:
 - (a) provide to the Commission copies of all documents relating to Alpha Venture Plus at the same time it files them with the OSC; and
 - (b) promptly provide the Commission with any other information relating to Alpha Exchange that the Commission requests.
4. Each of Alpha Exchange and Alpha LP continue to be recognized by the OSC as an exchange.

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5. Alpha Exchange Inc. must monitor the following criteria and, if any one threshold is crossed, promptly apply to the Commission for recognition as an exchange:
- (a) the number of venture issuers listed on Alpha Exchange Inc. equals or exceeds 2% of the total number of venture issuers;
 - (b) the number of venture issuers listed on Alpha Exchange Inc., and which have the Commission as the principal regulator, equals or exceeds 1% of the total number of venture issuers; or
 - (c) for two out of three preceding calendar months, the total dollar value of the trading volume of all venture issuers listed on Alpha Exchange Inc. is equal to or greater than 3% of the total dollar value of the trading volume of all venture issuers for those months.

This decision will become effective on April 1, 2012.

March 29, 2012

Brenda M. Leong
Chair